REMARKS

Claims 6, 8-11, 13-15, 20, and 23-27 are pending in the application, of which claims 26 and 27 are newly presented. It is submitted that no new matter has been presented. Reconsideration and allowance of Applicant's claims are respectfully requested in view of the following remarks.

In the Action dated May 18, 2009, Claims 6, 9-11, 14, 15, 20, 24, and 25 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,721,334 to Ketcham et al. ("Ketcham") in view of U.S. Patent No. 7,274,711 Kajizaki et al. ("Kajizaki"). This rejection is respectfully traversed.

In the Advisory Action dated September 9, 2009, the Office substantially maintains its position in the Action dated May 18, 2009.

Applicant respectfully traverses the rejection for at least the reasons below.

Applicant's independent claim 6 recites, and independent claims 11 and 20 similarly recite, among other things, "...**aggregating** at least **two data packets having** a same destination address and **identical quality of service information** among the plurality of received data packets to form a single aggregated packet."

Ketcham provides a system and method for a packet-based network using aggregate packets. Ketcham describes determining which network devices support aggregate packets. If a first packet is received on a route that supports aggregate packets, it is then held for a short period. During this short period, if an additional packet is received that shares at least one common route element that also supports aggregate packets with the first packet, the first packet and the additional packet are combined into a single larger aggregate packet.

However, Ketcham does not describe aggregating at least two data packets having a same destination address and identical quality of service information from among the plurality of received data packets to form a single aggregated packet. The Office appears to agree that Ketcham is silent with regard to quality of service being used during aggregation.

Accordingly, the Office asserts Kajizaki as allegedly providing this feature. Applicant respectfully disagrees as outlined below.

Kajizaki describes a network relay apparatus and a method of combining packets in a network in which, as in the Internet Protocol (IP), packet size is variable in length and maximum transmission unit (MTU) size for the network is predetermined primarily according to the physical medium and communication standard. Communications are performed by the network relay apparatus or router that controls transmission paths.

First, it would appear that the implementation in question of Kajizaki is directed to network layers, while exemplary implementation of the instant application is directed to a MAC layer.

Second, it appears the section of Kajizaki in question **does not in fact disclose or suggest** "...**aggregating** at least **two data packets having** a same destination address and **identical quality of service information** among the plurality of received data packets to form a single aggregated packet." Instead, lines 48-51, column 7 of Kajizaki merely disclose as follows:

> "*Fig. 18 shows the processing flow in the routing processing unit when a packet to be transmitted is received from the disassembling unit. The routing processing unit 8 extracts a D bit from the Type of Service field....*"

Applicant notes that the above **does not disclose or suggest**, that "D bit from the Type of Service field" is related to "the packet to be transmitted." Rather, the Type of Service field is disclosed with respect to FIG. 12 of Kajizaki, and the corresponding column 6, line 42 of Kajizaki merely discloses as follows:

"The format of the combined packet is shown in Fig. 12..."

Accordingly, if anything, the "Type of Service field" of Kajizaki is related to the combined packet, *as in past tense*, and is NOT related to a packet to be transmitted (let alone to packets to be aggregated).

Third, as an alternative or in addition to the second point, even if for arguments sake that the section in question of Kajizaki at col. 7 describes an example in which it is determined whether packets may be combined by checking an attribute of the packet to be transmitted and performing path selection based on the network condition, Kajizaki does not disclose or suggest "...**aggregating** at least **two data packets having** a same destination address and **identical quality of service information** among the plurality of received data packets to form a single aggregated packet."

In particular, even if for arguments sake that: FIG. 18 of Kajizaki shows a processing flow in the routing processing unit when a packet to be transmitted is received from the disassembling unit; that the routing processing unit extracts a "D bit" from the Type of Service field and examines whether it indicates normal delay (value: 0) or low delay (value: 1); and that if it indicates low delay, the packet is recognized as being a priority packet, and the packet is not combined, and the packet is sent directly to the transmit driver; and that if the D bit indicates normal delay, the packet is recognized as being a non-priority packet, and the packet is sent to the combining unit, Kajizaki still does not describe aggregating packets having identical quality of service information because all that Kajizaki describes is combining non-priority packets.

However, this does not mean that the combined non-priority packets have identical quality of service information. At best this may be one parameter that factors into or relates to quality of service of a session, but it does not address other information, such as one or more of a required bit rate, delay, jitter, packet dropping probability and/or a bit error rate that may be necessary for the quality of service for a particular session. Therefore, Kajizaki does not describe aggregating packets having "identical" quality of service information and does not provide for the deficiencies of Ketcham noted above.

MOREOVER, newly presented independent claim 26 recites, and independent claim 27 similarly recites, among other things, "...**aggregating** at least **two data packets having** a same destination address and **identical quality of service (QoS) parameters** among the plurality of received data packets..." (emphasis added).

Clearly, "D bit" from the Type of Service field of Kajizaki is directed to one parameter at best (even if we assume for arguments sake that Kajizaki discloses the above points alleged by the Office). Accordingly, the proposed combination of Ketcham and Kajizaki fails to describe or suggest all of the elements of Applicant's independent claims 26 and 27.

It is respectfully submitted that the proposed combination of Ketcham and Kajizaki fails to describe or suggest all of the elements of Applicant's independent claims 6, 11, 20, 26 and 27, and therefore does not establish a *prima facia* case of obvious under Section 103 with regard to claims 6, 11, 20, 26 and 27. Claims 9, 10, 14, 15 20, 24, and 25 depend from claims 6, 11, and 20, respectively, and in addition to features recited therein, are allowable for at least the reasons given above for claims 6, 11, and 20. Therefore, it is respectfully requested that the rejection of claims 6, 9-11, 14, 15, 20, 24, and 25 be reconsidered and withdrawn.

Claims 8, 13, and 23 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ketcham in view Applicant's alleged admitted prior art of Fig. 2. This rejection is respectfully traversed.

Claims 8, 13, and 23 depend from claims 6, 11, and 20, respectively. It is respectfully submitted that Applicant's admitted prior art does not provide for any of the deficiencies of Ketcham noted above with respect to claims 6, 11, and 20, and that these claims are believed to be allowable for at least the reasons given above for claims 6, 11, and 20.

As a result, the proposed combination fails to describe or suggest all of the elements of Applicant's claims 8, 13, and 23 therefore does not establish a *prima facia* case of obvious under Section 103 with regard to claims 8, 13, and 23. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

It is respectfully submitted that all claims are in condition for allowance, and early notice of the same is respectfully solicited. If any questions remain, the Examiner is invited to contact Applicant's representative at the telephone number listed above.

Should the rejection be maintained, Applicant respectfully requests that the Office point to specific citations allegedly disclosing each and every features recited in Applicant's claims, and moreover, address each and every arguments presented above by the Applicant.